

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CARMEN H. SALDANHA,	§
	§ No. 347, 2005
Respondent Below-	§
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
BRIAN J. SALDANHA,	§ File No. CN02-08607
	§ Petition Nos. 04-00604 and 05-13132
Petitioner Below-	§
Appellee.	§

Submitted: August 12, 2005

Decided: September 12, 2005

Before **BERGER, JACOBS**, and **RIDGELY** Justices.

ORDER

This 12th day of September 2005, upon consideration of the Rule to Show Cause and response thereto, it appears to the Court that:

(1) The appellant, Carmen Saldanha (“Wife”), filed this appeal from a decision of the Family Court, dated July 1, 2005, which disposed of matters ancillary to the parties’ divorce. The Family Court’s July 1, 2005 order directed the parties to file their respective affidavits in support of their requests for attorneys fees within ten days of the trial court’s order. Both parties filed motions and affidavits within the specified time. Those motions remain pending before the Family Court.

(2) On August 4, 2005, the Clerk of the Court issued a notice to Wife to show cause why this appeal should not be dismissed for her failure to comply with Supreme Court Rule 42 in seeking to appeal from an interlocutory order. Wife filed a response contending that the Family Court's order is a final order as to property division and alimony.

(3) We disagree. This Court consistently has held that that a judgment on the merits is not final until an outstanding related application for an award of attorneys fees has been decided.¹ The July 1 ruling from which the appeal is taken is interlocutory in nature because it did not finally determine and terminate the cause before the Family Court.² Furthermore, Wife failed to comply with the requirements of Supreme Court Rule 42 in seeking to appeal from an interlocutory order.

NOW, THEREFORE, IT IS ORDERED that this appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ *Lipson v. Lipson*, 799 A.2d 345, 348 (Del. 2001).

² *See Julian v. State*, 440 A.2d 990 (Del. 1982).